

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID ANTHONY FALLON, NO. CIV.S-05-0509 MCE DAD PS

Plaintiff,

No. CIV.S-05-0509 MCE DAD PS

V.

FINDINGS AND RECOMMENDATIONS

UNITED STATES GOVERNMENT,

Defendant.

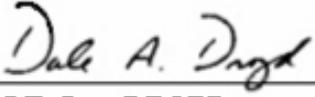
Plaintiff, proceeding in this action pro se, initiated this action by filing a complaint on March 15, 2005, along with an application to proceed in forma pauperis. The matter was referred to a United States Magistrate Judge by Local Rule 72-302(21) pursuant to 28 U.S.C. § 636(b)(1).

By order filed April 15, 2005, plaintiff's application to proceed in forma pauperis was denied without prejudice to submitting an amended application or payment of the required filing fee within twenty days. In addition, plaintiff was ordered to show cause in writing within twenty days why this matter should not be dismissed for

1 lack of subject matter jurisdiction. See Fed. R. Civ. P. 12(h) (3).
2 Plaintiff was forewarned that failure to timely comply with the terms
3 of the order would result in a recommendation that this action be
4 dismissed. The twenty-day period has now expired, and plaintiff has
5 not filed an amended in forma pauperis application, paid the required
6 filing fee or otherwise responded to the court's order. Accordingly,
7 the court HEREBY RECOMMENDS that this action be dismissed without
8 prejudice. See L.R. 11-110; Fed. R. Civ. P. 41(b).

9 These findings and recommendations are submitted to the
10 United States District Judge assigned to the case, pursuant to the
11 provisions of 28 U.S.C. § 636(b)(1). Within twenty days after being
12 served with these findings and recommendations, plaintiff may file
13 written objections with the court. Such a document should be
14 captioned "Objections to Magistrate Judge's Findings and
15 Recommendations." Plaintiff is advised that failure to file
16 objections within the specified time may waive the right to appeal the
17 District Court's order. See Martinez v. Ylst, 951 F.2d 1153 (9th Cir.
18 1991).

19 DATED: May 20, 2005.

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22 DALE A. DRCZD
23 UNITED STATES MAGISTRATE JUDGE
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